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STATE OF MICHIGAN  
TERRI LYNN LAND, SECRETARY OF STATE  
DEPARTMENT OF STATE  
LANSING  
July 2, 2003

DEPT. OF TRANSPORTATION  
DOCKETS

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U.S. Department of Transportation  
Dockets Management Facility, Room PL-401  
400 Seventh St., S.W.  
Washington, DC 20590-0001

Dear Sir or Madam:

Re: Request for Comments  
FMCSA-2000-11117 - 33  
TSA-2003-14610 - 30

The Michigan Department of State, in conjunction with Michigan State Police, has analyzed provisions of Sec. 1012 of the USA PATRIOT Act pertinent to criminal record checks for hazardous materials driver license endorsements. Michigan agencies are concerned that states have not yet received enough information to meet the implementation date of November 3, 2003. The Michigan Department of State supports the recent letter AAMVA sent requesting the Transportation Security Administration (TSA) to extend the state compliance date. Michigan recommends the implementation date be extended to nine months past development of federal business specifications.

**Comments**

**Extend Compliance Deadline**

TSA has not yet provided specific guidance to the states regarding how the "most effective, efficient fingerprinting process" mentioned in the rules will work. The regulations indicate TSA will "consult closely" with states to determine the most efficient and cost-effective means of collecting and submitting fingerprints. To date, Michigan has not received any guidance.

Michigan will amend current statute to accommodate license cancellations/revocations pursuant to TSA findings. The State Police may also require an amendment to state law to allow for the collection of social security numbers on hazardous materials-related fingerprinting applications. Michigan's legislature is in summer recess and reconvenes in the fall, leaving questionable time to have state legislation in place by November 3, 2003.

**CDLIS Specifications**

TSA indicated it would utilize the Commercial Driver License Information System to transmit a driver's hazardous materials eligibility status to the issuing state. At this juncture it appears that no one knows whether this status will actually reside on CDLIS. States may not have to modify CDLIS at all; they would, however, be required to note eligibility on a driver's permanent

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record. Michigan has no preference, but if the decision were made to make the status resident on CDLIS, Michigan would prefer that TSA direct-update the system.

Without CDLIS programming specifications, Michigan cannot develop internal programming code to update a driver's permanent record automatically.

Michigan would also appreciate specific business rules for the retention of the hazardous materials eligibility data on a driver's permanent record. Are such items as notification, reinstatement or expiration dates required to be part of the record? Is there a standard language format for the eligibility status? Or can these components differ from state to state?

#### **Processing the TSA Security Threat Application**

The IFR states that the TSA Security Threat application, which is not yet designed, should be completed at the time of the hazardous materials endorsement application. The rule does not state who is responsible for collecting and submitting the application to TSA. As written, the IFR has the TSA application and the fingerprinting processes separated at the state level, with law enforcement sending the fingerprints electronically to the FBI and driver license administrators manually shipping the threat assessment application to TSA. There is concern about how the TSA application and the fingerprint-generated background check will be connected, as there is no mechanism written into the rule connecting the two processes. The Michigan Department of State feels that the application should be submitted with an applicant's fingerprint cards, not with the driver license application. The Michigan State Police, however, have no apparatus for forwarding the TSA application. Without definitive direction, states will find it difficult to design, test, and implement application processes.

#### **Lead-In Time for Fingerprinting**

Though the interim final rule indicates that hazardous material applicants should begin the fingerprinting process 90 days before their driver licenses expire, Michigan's State Police feel that 90 days for fingerprinting is insufficient. The agency is concerned not only about rejected prints, but also about the time involved in researching criminal records with incomplete dispositions. Will TSA call upon state agencies to follow up incomplete case records? Michigan's State Police advise that the fingerprint window should be increased to 180 days.

The State Police advise that they have limited staff to handle the increased workload for FBI checks; the current turnaround time is 12-14 weeks. They anticipate difficulty meeting any mandate for turnaround without funding for additional positions.

#### **Reciprocity With Other Jurisdictions**

Michigan recognizes the concern in verifying a person's identity as they move from state to state. How though can states make such a transition seamless for hazardous materials operators for whom relocation is a condition of employment? Are such new residents simply out of a job until a new criminal background check can be executed? Driving on a previous state's license until the check is completed is contrary to Michigan law requiring residents to be licensed in Michigan. (On a side note, Michigan suggests that ACD codes be established for TSA-related record entries, enabling states to share any history of record checks with employers.)

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**Multiple Expiration Dates**

Michigan does not support different expiration dates for the driver license and the hazardous materials endorsement and believes the concept would be difficult to administer. Multiple expirations would complicate the process of completing the criminal history checks and maintaining the eligibility status on the driver record.

Michigan appreciates this opportunity to comment and looks forward to resolution of these outstanding issues. If you have questions regarding these remarks on FMCSA-2000-11117 and TSA-2003-14610, please contact Victoria Dittmer at (517) 322-1482.

Sincerely,



Michael Wartella  
Administration Director  
Customer Services Administration

/meb

By fax

cc: P. Richardson  
V. Dittmer